

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

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CC:CORP:B04

PLR-149609-10

Date:

May 11, 2011

LEGEND:

Parent =

Former Parent =

Subsidiary 1 =

Subsidiary 2 =

Date A =

Date B =

Date C =

Company Official =

Tax Professional =

Dear :

This letter responds to a letter dated December 2, 2010, submitted on behalf of Parent, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election. The extension is being requested for Parent and its subsidiaries to make an election to file a consolidated Federal income tax return, with Parent as the common parent, under § 1.1502-75(a)(1) of the Income Tax Regulations (hereinafter referred to as the “Election”), effective for the taxable year ending Date C. Additional information was received in a letter dated April 27, 2011. The material information is summarized below.

Former Parent wholly owns Subsidiary 1 and Subsidiary 2. Prior to Date B, Former Parent was the common parent of an affiliated group consisting of itself, Subsidiary 1, and Subsidiary 2 (the “Former Parent Group”), which filed consolidated Federal income tax returns.

Parent is an inactive holding company that was incorporated on Date A. On Date B, Parent acquired all of the stock of Former Parent in a transaction the taxpayer represents is not a reverse acquisition within the meaning of § 1.1502-75(d)(3). As a result of the acquisition, on Date B, the Former Parent Group terminated pursuant to § 1.1502-75(d)(1). Parent and its subsidiaries constituted a new affiliated group defined in § 1504(a)(1), with Parent as the common parent (the “Parent Group”). Nevertheless, the Former Parent Group filed a consolidated Federal income tax return for its taxable year ending Date C as if the Former Parent Group did not terminate.

The Election was due on the last day prescribed by law (including extensions of time) for filing Parent’s return. However, for various reasons, a valid Election was not filed. After the due date for the Election, it was discovered that the Election had not been filed. Subsequently, this request was submitted, under § 301.9100-3, for an extension of time to file the Election. The period of limitations on assessment under § 6501(a) has not expired for Parent’s, Former Parent’s, Subsidiary 1’s or Subsidiary 2’s taxable years ending Date B (if any), Date C, or any subsequent year.

Section 1.1502-75(a)(1) provides that a group which did not file a consolidated return for the immediately preceding taxable year may file a consolidated return in lieu of separate returns for the taxable year, provided that each corporation which has been a member of the group during any part of the taxable year for which the consolidated return is to be filed consents to the regulations under § 1502. If a group wishes to exercise its privilege of filing a consolidated return, such consolidated return must be filed not later than the last day prescribed by law (including extensions of time) for filing the common parent's return.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

In this case, the time for filing the Election is fixed by the regulations (i.e., § 1.1502-75(a)(1)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent and its subsidiaries to file the Election, provided Parent shows that it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and that granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Parent, Company Official, and Tax Professional explain the circumstances that resulted in the failure to timely file a valid Election. The information establishes that the request for relief was filed before the failure to make the Election was discovered by the Internal Revenue Service, and that Parent reasonably relied on a qualified tax professional who failed to make, or advise Parent to make, the Election. See § 301.9100-3(b)(i) and (v).

Based on the facts and information submitted, including the representations made, we conclude that Parent has shown that it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, provided the Parent Group qualifies substantively to file a consolidated return for the applicable tax year, an extension of time is granted under § 301.9100-3, until 45 days from the date on this letter, for Parent to file the Election (by filing a consolidated return, with Parent as the common parent, and attaching a Form 1122 for each of Former Parent, Subsidiary 1

and Subsidiary 2) for the taxable year ending Date C. The Parent Group must attach a copy of this letter to such return, or if the Parent Group files the return electronically, a statement may be attached to the return that provides the date and control number of this ruling.

The above extension of time is conditioned on the Parent Group's tax liability (if any) being not lower, in the aggregate, for all years to which the Election applies, than it would have been if the Election had been timely made (taking into account the time value of money). No opinion is expressed as to the Parent Group's tax liability for the year involved. A determination thereof will be made by the applicable Director's office upon audit of the Federal income tax returns involved.

We express no opinion with respect to whether, in fact, the Parent Group qualifies substantively to file a consolidated return. In addition, we express no opinion as to the tax effects or consequences of filing the return or the Election late under the provisions of any other section of the Code or regulations, or as to the tax treatment of any conditions existing at the time of, or effects resulting from, filing the return or the Election late that are not specifically set forth in the above ruling. For purposes of granting relief under § 301.9100-3, we relied on certain statements and representations made by Parent, Company Official, and Tax Professional. However, all essential facts must be verified. In addition, notwithstanding that an extension is granted under § 301.9100-3 to file the Election, penalties and interest that would otherwise be applicable, if any, continue to apply.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)